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FISCAL IMPACT STATEMENT

LS 6777

BILL NUMBER: SB 232

NOTE PREPARED: Apr 8, 2003

BILL AMENDED: Apr 8, 2003

SUBJECT: Community Revitalization Enhancement District.

FIRST AUTHOR: Sen. Riegsecker

FIRST SPONSOR: Rep. Crawford

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) The bill removes annexation provisions that apply only to a city in St. Joseph County. It also removes a provision that allows a city in St. Joseph County four years to extend capital services. The bill makes annexation provisions that apply to other municipalities applicable to a city in St. Joseph County. The bill establishes a definition of "pass through entity" for purposes of the income tax credit for qualified investments in a community revitalization enhancement district (CRED district). The bill also allows a first class or second class city to establish a CRED district in order to address certain obstacles to redevelopment. It permits a city that is authorized to establish a CRED district under current law to establish one additional district if the city also meets the criteria set forth in this bill. The bill provides that districts established under the bill are to receive 75% (instead of 100%) of the sales tax and income tax incremental amounts generated in the district. The bill also specifies that the \$1,000,000 per year cap on incremental revenues is per district (instead of per county). The bill limits the maximum amount of revenue that may be allocated to a community revitalization enhancement district (CRED) established after June 30, 2003. The bill also increases the amount of money that must be available from other sources before certain types of CRED's can be established.

Effective Date: January 1, 2003 (retroactive); July 1, 2003.

Explanation of State Expenditures: (Revised) *CREDs*: Under current law, the state Budget Committee must review and make a recommendation to the Budget Agency after they are notified of a designation of a community revitalization enhancement district (CRED). The Budget Agency must approve the resolution designating the district. The Department of State Revenue (DOR) must calculate the base income tax amount and the base gross retail amount for the district. The State Treasurer must establish an incremental tax financing fund for the county that establishes the district. Money in the fund does not revert to the state

General Fund at the end of the fiscal year. The DOR and the State Budget Agency must annually estimate and certify the amount of income tax and sales tax which will be collected from the district.

Explanation of State Revenues: (Revised) *Community Revitalization Tax Credit:* Under the bill, taxpayers in the new CREDs would be entitled to the Community Revitalization Tax Credit which was established in P.L. 125-1998. In addition, the tax credit would be extended to pass through entities that make qualified investment in existing as well as new CREDs. The tax credit is available for qualified investment made for the redevelopment or rehabilitation of property located within a CRED. The expenditures must be made under a plan adopted by an advisory commission on industrial development and approved by the Department of Commerce. In addition, the bill allows a pass through entity to claim the tax credit. As tax return data relating to this tax credit are unavailable and the potential number of new CREDs is indeterminable, the revenue loss from potential additional credits is indeterminable.

The tax credit is based on 25% of the qualified investment. The tax credit may be used to reduce the taxpayer's tax liability under the following Taxes: Adjusted Gross Income, County Adjusted Gross Income, County Option Income, County Economic Development Income, Insurance Premiums, and Financial Institutions. The taxpayer may carry any excess credit over to the immediately following years, but is not entitled to a carryback or refund of any unused credit. A taxpayer may assign any part of the credit to a lessee of the property redeveloped or rehabilitated but must be in writing and reported to the Department of State Revenue. A taxpayer is not entitled to a credit if they substantially reduce or cease to operate in another area of the state in order to relocate within the district.

This tax credit is similar to the Industrial Recovery Site/Dinosaur Credit (IRTC) that has been in effect since 1987 under P.L. 379-1987(ss). Since its inception, 29 tax credits have been awarded with a maximum value of about \$23.0 M. The total investment in these projects equaled about \$104.9 M. Since 2000, only three tax credits have been awarded with a maximum value of about \$1.9 M and project investment totaling about \$10.1 M.

CRED Income and Sales Tax Increment Allocations: This bill will allow the additional cities that designate a CRED to capture up to \$750,000 of the incremental income and sales taxes annually generated in the CRED. In addition, the bill limits the increment that may be captured by these new CREDs to 75% of the incremental income and sales taxes. The State Budget Agency must approve the resolution designating a CRED before incremental income and sales taxes may be allocated to a city designating a CRED. If the approval is obtained for any of the new CREDs, the state would be forgo 75% of any new income or sales tax revenue up to \$750,000 per year that is generated by the development in these new CREDs. To this date, no incremental income or sales taxes have been captured by the existing CREDs in Bloomington, Marion, and South Bend. (Note: The bill does not reduce the incremental income and sales tax capture limit for existing CREDs. Thus, Bloomington, Marion, and South Bend CREDs would still be able to capture up to \$1.0 M per year generated by CRED development.)

The incremental income and sales tax revenue will be transferred to the Industrial Development Fund of the city establishing the CRED. The covered taxes which will be included are Sales Tax, Adjusted Gross Income Tax, County Adjusted Gross Income Tax, County Option Income Tax, and County Economic Development Income Tax. State sales and income taxes are generally deposited in the state General Fund and Property Tax Replacement Fund. The tax loss from the establishment of this district is restricted to 15 years.

Explanation of Local Expenditures: (Revised) *St. Joseph County Annexation Provisions:* The bill makes technical corrections as these annexation provisions specific to St. Joseph County were ruled as

unconstitutional by the Indiana Supreme Court. Below is an outline of what modifications are made.

Removing the annexation provisions specific to St. Joseph County would require cities in that county to comply with the following requirements regarding annexation procedures:

- the territory sought to be annexed must have a population density of at least three persons per acre;
- a remonstrance must be signed by 65 percent of the land owners in the annexed territory, rather than a majority under current law;
- services of a capital improvement nature must be provided to the annexed territory within three years, instead of four years;
- at a remonstrance's hearing the court would be able to deny the annexation if at least 65 percent, rather than a majority, of land owners in the territory oppose the annexation; and
- within one year of the three-year, instead of four-year, period that capital services must be provided, a person who pays taxes on the annexed property may file a complaint alleging injury resulting from the city's failure to implement the fiscal plan.

Explanation of Local Revenues: (Revised) *CRED Designation:* This bill allows the City of Indianapolis and all second class cities to establish one Community Revitalization Enhancement District (CRED). This authorization would include cities that currently have a CRED. Under current law, CREDs are limited to the City of Marion and municipalities in Allen, Delaware, Monroe, and St. Joseph counties. The number of new CREDs that could potentially be established under the bill is indeterminable and contingent on response by the newly authorized cities. In addition to Indianapolis, there are 21 second class cities. Currently, there are CREDs in Bloomington, Marion, and South Bend (all of which are second class cities).

As under current law, the bill allows a CRED to be designated in these cities by an advisory commission on industrial development. The commission resolution designating the CRED must be submitted to the Budget Committee for review and recommendation to the State Budget Agency (SBA). The SBA must approve the resolution before incremental income and sales taxes may be allocated to the CRED. However, the bill does not require the CRED to meet usable building space and employment criteria required under current law. Under the bill, a CRED may be designated if the commission finds both (1) and (2) exist:

(1) That the redevelopment of the area in the CRED will:

- (a) promote significant opportunities for gainful employment of its citizens;
- (b) attract a major new business enterprise to the area; or
- (c) retain or expand a significant business enterprise within the area.

(2) That there are significant obstacles to redevelopment of the area due to any of the following problems:

- (a) obsolete or inefficient buildings;
- (b) aging infrastructure or ineffective utility services;
- (c) utility relocation requirements;
- (d) transportation or access problems;
- (e) topographical obstacles to redevelopment;
- (f) environmental contamination;
- (g) lack of development or cessation of growth;
- (h) deterioration of improvements or character of occupancy, age, obsolescence, or substandard buildings; or

(i) other factors that have impaired values or prevent a normal development of property or use of property.

CRED Income Tax Increment Allocation: This bill will allow additional cities that designate a CRED under the bill to capture 75% of the incremental income taxes generated from new development in the CRED. This revenue is to be deposited in the Industrial Development Fund of the city designating the CRED. The covered taxes which will be included are CAGIT, COIT, and CEDIT. The local taxing units which would normally receive a share of the total local option income taxes generated in the CRED under current statute will not receive 75% of the incremental revenue generated. The bill allows money in the Industrial Development Fund to be pledged by the advisory commission to pay debt service on bonds and to maintain a debt service reserve fund.

The State Budget Agency must approve the resolution designating a CRED before incremental income and sales taxes may be allocated to a city designating a CRED. To this date, no incremental income taxes have been captured by the existing CREDs in Bloomington, Marion, and South Bend. The district is limited to 15 years. Current law also allows all taxing units, except townships, to impose a levy for the Industrial Development Fund at a rate of up to \$0.0167 per \$100 of assessed valuation. The proceeds from the tax levy may be pledged for the payment of bonds and obligations issued in a CRED.

State Agencies Affected: Indiana Department of Commerce; Department of State Revenue; Treasurer of State; Budget Agency.

Local Agencies Affected: Indianapolis; second class cities; cities with CREDs; Advisory Commission on Industrial Development; St. Joseph County and cities located within its boundaries.

Information Sources: Indiana Department of Commerce; Indiana Business Research Center at Indiana University; Department of Workforce Development; Local Government Database. Bob Lain, State Budget Agency, (317) 232-3471.

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